

**REMARKS**

Applicants acknowledge receipt of the Examiner's Office Action dated February 15, 2008 having a shortened statutory period ending May 15, 2008. Claims 1 and 15 have been amended. Claim 33 has been added.

**Rejections under 35 U.S.C. §102**

Claims 1, 9, 15, 23, and 32 are rejected under 35 U.S.C. §102(e) as being anticipated by Eshel et al., U.S. Publication No. 2003/0158862 (Eshel). After careful consideration of the remarks made in the present Final Office Action, Applicants respectfully assert that Claims 1, 9, 15, 23, and 32, as now amended, are not rendered unpatentable by Eshel in view of the arguments herein. Support for the amendments can be found in at least paragraphs [0001] and [0003] of the present Specification.

The "Response to Arguments" section of the present Final Office Action asserts:

The examiner further notes that all the independent claims 1 and 15 recite is that the first and second data volumes are initially unrelated to one another (meaning they could store different data). Moreover, the independent claims state that the second volume becomes a point-in-time copy of the first data after it is refreshed. The examiner further wishes to state that initially (just like in the independent claims), a tape and the file system of Eshel are unrelated. Moreover, the examiner wishes to state that the second file system and first file systems of Eshel are also initially unrelated as well because the first step of Eshel's snapshot process is to create a snapshot of the first file system and then transfer that snapshot to the second file system. See Paragraph 130. Because the second file system is not created and exist already in the system before any snapshot of the first file system is created, that second file system is unrelated and not a PIT or modified PIT of the first file system. Thus, Eshel teaches the aforementioned limitation.

Paragraph [0130] of Eshel discloses:

These embodiments of the present invention create a hot standby file system by first generating a snapshot of the original (source) file system and transferring the entire data set for that snapshot to a second file system in order to create an identical copy of the original file system (i.e., a mirror file system). These embodiments then periodically bring the standby or mirror file system up-to-date by generating new snapshots of the original file system and determining the changes between these new, more recently captured or generated snapshots and the state that was captured by a previous snapshot of the original file system that had been transferred to the mirror file system. The original file system generates a set of changes that are then communicated and applied to the standby file system in order to bring the standby file system up to the state of the new snapshots captured on the original file system. The original file system snapshot and the set of changes that are generated by these file systems contain tags to ensure completeness in the mirror file system by identifying the order of creation or the order in which these set of changes were applied. In this description, the term “restore” indicates a file system has been brought to the state of another file system by processing a dataset that represents an entire snapshot from that other file system. The term “apply” indicates that a file system has been updated to a more recent state of another file system by processing a set of changes that was generated between two snapshots on the other file system.

However, no matter what construction one puts to the cited passages in Eshel and the arguments in the present Final Office Action, the cited passages of Eshel simply do not disclose (or render obvious) “writing data to a first and second data volume, wherein the first data volume is a first primary volume, the second data volume is a second primary volume, and the first and second data volumes are unrelated data volumes, the first primary volume and the second primary volumes are coupled to a host node, and the host node processes requests received from at least one client computer to perform transactions on the first primary volume and the second primary volume”, as recited in independent Claims 1 and 15. The first and second data volumes recited in Claims 1 and 15 are both primary volumes that receive and process transactions from a host node, which in turn, processes requests received from at least one client computer. See at least

paragraphs [0009]-[0010] of the present Specification. The system and method disclosed in Eshel frequently refer to “primary” and “backup” file systems. In fact, paragraph [0127] of Eshel discloses backing up a file system to tape while allowing read/write access to the file system. Clearly, the tape used for a backup and not as a primary volume that processes transactions from a host node in response to the host node receiving requests from a client computer. The fact that the tape may at one time be unrelated to a file system is irrelevant, since the tape disclosed in Eshel is clearly disclosed as a backup volume rather than a primary volume, as recited in the independent claims.

Thus, the cited sections of Eshel does not disclose (or render obvious) each and every element of independent Claims 1 and 15. Therefore, Claims 1 and 15 and all dependent Claims are not rendered unpatentable by Eshel. Thus, Applicants respectfully request that the rejection be withdrawn.

Applicants have added independent Claim 33 to clarify that “the first data volume is unrelated to the second data volume after the writing”. Support for Claim 33 can be found in at least paragraphs [0009]-[0010] in the present Specification.

**Rejections under 35 U.S.C. §103**

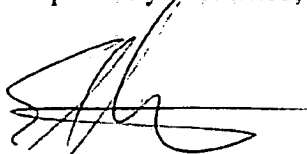
Claims 4-5, 8, 10-12, 18-19, 22, and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eshel as applied to Claims 1, 9, 15, 23, and 32 above, and in view of Veritas (Article entitled “Veritas Flashsnap Point-In-Time Copy Solutions,” dated June 24, 2002 (Veritas)). Claims 4-5, 8, 10-12, 18-19, 22, and 24-25 are not rendered unpatentable by the combination of Eshel and Veritas by virtue of their dependency on independent Claims 1 and 15. Thus, Applicants respectfully request that the rejection be withdrawn.

CONCLUSION

Applicants submit that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Eric A. Stephenson', written over a horizontal line.

Eric A. Stephenson  
Attorney for Applicants  
Reg. No. 38,321  
Telephone: (512) 439-5093  
Facsimile: (512) 439-5099